IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 97 OF 2003

IN

NOTICE OF MOTION NO. 734 OF 1996

IN

SUIT NO. 2365 OF 1986

PDR Videotronics (I) Pvt.Ltd. ... Petitoners

Vs.

Maharashtra Film, Stage & Cultural
Development Corporation Ltd.
& Ors. ... Respondents

Ms. Amita Poojary i/b Dhru & co. for the petitioner (discharged).

Mr. A.A.Kumbhakokni, A.A.G. a/w L.M.Acharya for Respondents Nos. 1 & 3, 4.

Mr. D.D.Madon a/w S.N.Vimadalal & Pereira for Respondents 5 to 7.

Ms. Deepa Hate i/b. Gajaria & XCo. for Respondent NO.2.

CORAM: S.K.SHAH,J.

DATE : 9th December,2005.

P.C.

1. None for the petitioner. Heard the learned Counsel for the Respondents. Perused the order dated 5th December, 1997 of which contempt is alleged. By this order, the interim relief in terms of prayer (c) was granted. Prayer clause (c) was to the effect that the defendants, their servants and agents were restrained by an order and injunction from alienating, encumbering, parting with possession of or disposing of or creating third party rights in favour of plot No.22, in the Film City, Goregaon (East), Mumbai - 400 065.

2. The learned Counsel for the Respondents Nos. 5, 6 and 7 points out that the petitioner had filed Notice of Motion No.980 of 2004 in the Suit under the provisions of Order 39 Rule 2A of the Code of Civil Procedure for taking action against the Respondents for violating the interim order passed by the Court. By order dated 3rd March, 2005, this Court directed the Notice of Motion to be heard along with the suit observing that the issue involved cannot be decided without recording of evidence.

3. The petitioners have filed an Appeal, being Appeal No.389 of 2005 against the said order dated 3rd March, 2005. Ultimately, the petitioners withdrew the Appeal. Copies of both these orders are produced.

They are taken on record.

4. It is obvious that the relief that was claimed in the Notice of Motion No.980 of 2004 was similar to the one claimed here. Since the Notice of Motion in which such relief was claim has been directed to be heard along with the suit, the action of contempt cannot be taken. The learned Counsel for the Respondents further submits that there is dispute of identity of plot and,therefore, evidence is necessary to be recorded for deciding the dispute.

5. Under the circumstances, the Contempt Petition cannot be proceeded with. The Contempt Petitiion therefore stands disposed of.

5. The Show Cause notice No.400 of 2004 is hereby discharged.

(S.K.SHAH,J.)